

Petition for Expungement or Reexamination form

The table below presents the data as entered.

Input Field	Entered
REGISTRATION NUMBER	6102744
PETITION NUMBER	2022-100062
BASIS FOR PETITION	Reexamination: The mark is registered under section 1 of the Act and was not in use in commerce on or in connection with some or all of the goods and/or services recited in the registration on or before the relevant date.
MARK SECTION	
MARK	mark
LITERAL ELEMENT	COMICS GATE
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
GROUNDS FOR PETITION	
STATEMENT	Petitioner attaches the grounds and evidence for the petition as PDFs. To summarize, Petitioner submits this Petition for Reexamination on the grounds that the COMICS GATE mark was not in use in commerce in connection with the listed goods (comics) in the Subject Registration as of the filing of Registrant's Statement of Use on April 24, 2020, or as of the registration date of Registrant's mark (July 14, 2020), or as of the time by which Registrant was required to file a statement of use under section 1(d). 15 U.S.C. § 1066(b).
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GOODS AND/OR SERVICES SUBJECT TO THE PETITION	
INTERNATIONAL CLASS	016
IDENTIFICATION	Comics
PETITIONER INFORMATION	
NAME	Common Sense Press Inc DBA Pocket Jacks Comics
MAILING ADDRESS	12471 WOOD MANOR CIR
CITY	DALLAS
STATE	Texas
ZIP/POSTAL CODE	75234
COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
EMAIL	XXXX
ATTORNEY INFORMATION	
NAME	Francis John Ciaramella, Esquire
ATTORNEY BAR MEMBERSHIP NUMBER	XXX
YEAR OF ADMISSION	XXXX
U.S. STATE/ COMMONWEALTH/ TERRITORY	XX
FIRM NAME	Francis John Ciaramella, PLLC
STREET	110 Front Street, Suite 300
CITY	Jupiter
STATE	Florida
POSTAL CODE	33477
COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
PHONE	5612957325
EMAIL	frank@fjcpllc.com
CORRESPONDENCE INFORMATION	
NAME	Francis John Ciaramella, Esquire
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	frank@fjcpllc.com
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	NOT PROVIDED
PAYMENT SECTION	

PETITION FOR EXPUNGEMENT OR REEXAMINATION FEE PER CLASS	400
NUMBER OF CLASSES	1
TOTAL FEES DUE	400
SIGNATURE SECTION	
DECLARATION SIGNATURE	/Francis John Ciaramella/
SIGNATORY'S NAME	Francis John Ciaramella, Esquire
SIGNATORY'S POSITION	Attorney of Record, Florida Bar Member
SIGNATORY'S PHONE NUMBER	5612957325
DATE SIGNED	03/23/2022
SIGNATURE METHOD	Signed directly within the form
PETITION SIGNATURE	/Francis John Ciaramella/
SIGNATORY'S NAME	Francis John Ciaramella, Esquire
SIGNATORY'S POSITION	Attorney of Record, Florida Bar Member
SIGNATORY'S PHONE NUMBER	5612957325
DATE SIGNED	03/23/2022
ROLE OF AUTHORIZED SIGNATORY	Authorized U.S.-Licensed Attorney
SIGNATURE METHOD	Signed directly within the form
FILING INFORMATION SECTION	
SUBMIT DATE	Wed Mar 23 17:46:11 ET 2022
TEAS STAMP	USPTO/TRR-XX.XXX.XXX.XX-2 0220323174611249622-20221 00062-8004395ae5a4ed7f8a4 7edb645aa99fcaa6365366360 794588f39bce598f17e5d0-CC -46104769-202203231734437 70328

Petition for Expungement or Reexamination form

To the Commissioner for Trademarks:

REGISTRATION NUMBER: 6102744

PETITION NUMBER: 2022-100062

MARK: COMICS GATE(Standard Characters, see <https://tmng-al.uspto.gov/resting2/api/img/88102778/large>)

BASIS FOR PETITION

Reexamination: The mark is registered under section 1 of the Act and was not in use in commerce on or in connection with some or all of the goods and/or services recited in the registration on or before the relevant date.

GROUND FOR PETITION

Explanatory Statement: Petitioner attaches the grounds and evidence for the petition as PDFs. To summarize, Petitioner submits this Petition for

Reexamination on the grounds that the COMICS GATE mark was not in use in commerce in connection with the listed goods (comics) in the Subject Registration as of the filing of Registrant's Statement of Use on April 24, 2020, or as of the registration date of Registrant's mark (July 14, 2020), or as of the time by which Registrant was required to file a statement of use under section 1(d). 15 U.S.C. § 1066(b).

Attached Evidence:

Original PDF file:

[evi_7611022895-173443770 . Re-Examination_COMICS_GATE.pdf](#)

Converted PDF file(s) (9 pages) [Evidence-1Evidence-2Evidence-3Evidence-4Evidence-5Evidence-6Evidence-7Evidence-8Evidence-9](#)

Original PDF file:

[evi_7611022895-173443770 . Exhibit_A.pdf](#)

Converted PDF file(s) (6 pages) [Evidence-1Evidence-2Evidence-3Evidence-4Evidence-5Evidence-6](#)

Original PDF file:

[evi_7611022895-173443770 . Exhibit_B.pdf](#)

Converted PDF file(s) (12 pages) [Evidence-1Evidence-2Evidence-3Evidence-4Evidence-5Evidence-6](#)

[Evidence-7Evidence-8Evidence-9Evidence-10Evidence-11Evidence-12](#)

Original PDF file:

[evi_7611022895-173443770 . Exhibit_C.pdf](#)

Converted PDF file(s) (3 pages) [Evidence-1Evidence-2Evidence-3](#)

Original PDF file:

[evi_7611022895-173443770 . Exhibit_D.pdf](#)

Converted PDF file(s) (5 pages) [Evidence-1Evidence-2Evidence-3Evidence-4Evidence-5](#)

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Converted PDF file(s) (17 pages) [Evidence-1Evidence-2Evidence-3Evidence-4Evidence-5Evidence-6](#)

[Evidence-7Evidence-8Evidence-9Evidence-10Evidence-11Evidence-12Evidence-13Evidence-14Evidence-15Evidence-16Evidence-17](#)

Original PDF file:

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Converted PDF file(s) (22 pages) [Evidence-1Evidence-2Evidence-3Evidence-4Evidence-5Evidence-6](#)

[Evidence-7Evidence-8Evidence-9Evidence-10Evidence-11Evidence-12Evidence-13Evidence-14](#)

[Evidence-15Evidence-16Evidence-17Evidence-18Evidence-19Evidence-20Evidence-21Evidence-22](#)

Original PDF file:

[evi_7611022895-173443770 . Exhibit_G.pdf](#)

Converted PDF file(s) (3 pages) [Evidence-1Evidence-2Evidence-3](#)

Original PDF file:

[evi_7611022895-173443770 . Exhibit_H.pdf](#)

Converted PDF file(s) (5 pages) [Evidence-1Evidence-2Evidence-3Evidence-4Evidence-5](#)

GOODS/SERVICES

The following goods/services are the subject of this petition:

Class 016 for Comics

PETITIONER INFORMATION:

Common Sense Press Inc DBA Pocket Jacks Comics, having an address of

12471 WOOD MANOR CIR

DALLAS, Texas 75234

United States

XXXX

ATTORNEY INFORMATION

The petitioner's proposed attorney information: Francis John Ciaramella, Esquire. Francis John Ciaramella, Esquire of Francis John Ciaramella, PLLC, is a member of the XX bar, admitted to the bar in XXXX, bar membership no. XXX, is located at

110 Front Street, Suite 300

Jupiter, Florida 33477

United States

is appointed to submit this Petition for Expungement or Reexamination form on behalf of the applicant.

The phone number is 5612957325.

The email address is frank@fjcp LLC.com

Francis John Ciaramella, Esquire submitted the following statement: The attorney of record is an active member in good standing of the bar of the highest court of a U.S. state, the District of Columbia, or any U.S. Commonwealth or territory.

Correspondence Information

Francis John Ciaramella, Esquire

PRIMARY EMAIL FOR CORRESPONDENCE: frank@fjcpllc.com

SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES): NOT PROVIDED

FEE(S)

Fee(s) in the amount of \$400 is being submitted.

SIGNATURE(S)

Declaration Signature

The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the submission resulting therefrom, declares that the facts set forth above are true; all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

Signature: /Francis John Ciaramella/ Date: 03/23/2022

Signatory's Name: Francis John Ciaramella, Esquire

Signatory's Position: Attorney of Record, Florida Bar Member

Signatory's Phone Number: 5612957325

Signature method: Signed directly within the form

Signature: /Francis John Ciaramella/ Date: 03/23/2022

Signatory's Name: Francis John Ciaramella, Esquire

Signatory's Position: Attorney of Record, Florida Bar Member

Signatory's Phone Number: 5612957325 Signature method: Signed directly within the form

The signatory has confirmed that he/she is a U.S.-licensed attorney who is an active member in good standing of the bar of the highest court of a U.S. state (including the District of Columbia and any U.S. Commonwealth or territory); and he/she is currently the petitioner's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S.-licensed attorney not currently associated with his/her company/firm previously represented the petitioner in this matter: the petitioner has revoked their power of attorney by a signed revocation or substitute power of attorney with the USPTO; the USPTO has granted that attorney's withdrawal; the petitioner has filed a power of attorney appointing him/her in this matter; or the petitioner's appointed U.S.-licensed attorney has filed a power of attorney appointing him/her as an associate attorney in this matter.

PAYMENT: 2022-100062

PAYMENT DATE: 03/23/2022

Serial Number: 88102778

Internet Transmission Date: Wed Mar 23 17:46:11 ET 2022

TEAS Stamp: USPTO/TRR-XX.XXX.XXX.XX-2022032317461124

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Registration of
Antonio Malpica
Registration No:
6102744
Registration Date:
July 14, 2020
For: COMICS GATE

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION FOR REEXAMINATION

Pursuant to 15 U.S.C. § 1066(b) and 37 C.F.R. § 2.91(b)(2), Petitioner, COMMON SENSE PRESS INC DBA POCKET JACKS COMICS (hereinafter, "Petitioner"), a Texas corporation with a principal address of 12471 Wood Manor Circle, Dallas, TX 75234, hereby petitions for ex parte reexamination of U.S. Registration No. 6,102,744 (hereinafter, "Subject Registration") for the mark COMICS GATE (hereinafter, "Subject Mark") owned by ANTONIO J. MALPICA (hereinafter, "Registrant"), an individual with a principal address of 88 S Jefferson St, Beverly Hills, FL 34465.

Petitioner petitions for ex parte reexamination on the grounds that the Subject Mark was not in use in commerce in connection with any of the goods listed in the Subject Registration, namely "comics" (hereinafter, "Subject Goods"). Specifically, Registrant had not used his mark in commerce in connection with the Subject Goods as of the filing of his Statement of Use on

April 24, 2020, or as of the registration date of his mark (July 14, 2020), or as of the time by which he was required to file his statement of use under section 1(d).

Petitioner requests that the Director institute reexamination proceedings and cancel the Subject Registration in connection with the Subject Goods. In support of its Petition, Petitioner includes herewith, pursuant to 15 U.S.C. 1066a(b) and 37 C.F.R. § 2.91(c)(8)-(9), a verified statement setting forth the elements of the reasonable investigation of nonuse conducted and a factual statement of the relevant basis for the Petition, an index of all documentary evidence supporting a prima facie case of nonuse of the Subject Mark in commerce, and accompanying Exhibits.

In support of the Petition for Ex Parte Reexamination of U.S. Registration No. 6,102,744, (hereinafter, "Petition") filed by Petitioner, I, Francis John Ciaramella, Esq., having firsthand knowledge of the facts to be proved, affirm, as follows:

1. I am an attorney at law in the State of Florida, where I am a member in good standing of the bar. I am the managing attorney of the law firm of Francis John Ciaramella, PLLC, 110 Front Street, Suite 300, Jupiter, FL 33477. I submit this verified statement in support of Petitioner's Petition based upon my personal knowledge, information, and belief. I declare under penalty of perjury under the laws of the United States of America that the following is true and correct.

2. On September 3, 2018, Registrant filed Application Serial No. 88/102,778 for the mark COMICS GATE (the "Subject Mark") in International Class 016 for the following goods: "comics" (the "Subject Goods"). A true and accurate copy of same is attached herein as Exhibit A.

3. On April 24, 2020, after the Subject Mark abandoned, Registrant filed a statement of use asserting a date of first use of September 7, 2018. A true and accurate copy of same is attached herein as Exhibit B.

4. On July 14, 2020, Application Serial No. 88/102,778 matured into U.S. Registration No. 6,102,744 (the "Subject Registration") in connection with the Subject Goods in International Class 016. A true and accurate copy of same is attached herein as Exhibit C.

5. Based upon internet research and a reasonable investigation of nonuse, Registrant was not using the Subject Mark in commerce in connection with the listed goods (comics) in the Subject Registration as of the filing of his Statement of Use on April 24, 2020, or as of the registration date of his mark (July 14, 2020), or as of the time by which he was required to file his statement of use under section 1(d).

6. Indeed, based upon internet research and a reasonable investigation, the specimen submitted to the United States Trademark Office in connection with Registrant's allegation of use shows no use inside of the United States, but rather pre-sales activity not constituting use in commerce as defined by the Trademark Act.

7. Registrant's specimen consists of three screenshots from the websites indiegogo.com (a crowd-funding site wherein consumers pitch in to fund a project) and youtube.com. *See* Exhibit B. The first image submitted by Registrant does not show use of the COMICS GATE mark in commerce in connection with comics. Specifically, the first image notes that "this is going to be one of the best Comics Gate projects to rest on your shelves." Registrant's own specimen of use indicates that the "project" may be available at some future date, and that it is not presently available (i.e., "is going to be"). The second image submitted by Registrant does not show use of the COMICS GATE mark in commerce in connection with comics. Despite Registrant's

claims to the contrary, the second image does not show any sales. In reality, the second image only shows purported “contributions” rather than actual sales, suggesting that the “project” may be available at some future date. The third image submitted by Registrant does not show use of the COMICS GATE mark in commerce in connection with comics. According to the Registrant, the third image shows a screenshot of a “promotional video.” Like, the first two images, this “promotional video” does not demonstrate actual sales and indicates that the “project” may be available at some future date (i.e., it is promoting its potential future release).

8. On February 24, 2022, I attempted to check the status of Registrant’s crowdfunded comic book located at the website indiegogo.com, and labeled as “Detective Dead” (*see* Exhibit B), which was the basis for Registrant’s specimen submitted in his statement of use to register the Subject Registration with the USPTO. Upon visiting the website, the listed crowdfunding campaign was closed. The site allows the user (here, the Registrant Antonio Malpica) to provide updates to crowdfunders as needed. The most recent update was dated September 8, 2020. In the update, the Registrant Antonio Malpica stated: “I want to ask for your forgiveness on the quietness of this campaign, I realize that there are no words that I can write to express my sincere apologies. With that being said, I can say is that it is still being made and I am still receiving artwork. Attached to this update, is an early 27-page **preview of Detective Dead** in which you can view with the link provided below. When I say early, there are some interior [sic] pages that need to be added between the beginning of the story and cover. I had a little issue resizing the cover so it's a tad huge compared to the interior pages. Anyhow, I hope you like what you see and read.” This update, issued on September 8, 2020, would have also been after the deadline by which Registrant would have been able to file a statement of use. A true and accurate copy of same is attached herein as Exhibit D.

9. Registrant's statement that it only possesses a preview of its comic is an admission that he has never sold comics in the United States, including as of the filing of his Statement of Use on April 24, 2020, or as of the registration date of his mark (July 14, 2020), or as of the time by which he was required to file his statement of use under section 1(d).

10. On October 1, 2020, on behalf of Petitioner, I filed Cancellation Proceeding No. 90275375 against the Subject Registration (hereinafter, "Cancellation") before the Trademark Trial and Appeal Board. Among other things, in the Cancellation, it was alleged that "Registrant had not used his mark in commerce as of the filing of his Statement of Use on April 24, 2020 (or as of the registration date of his mark (July 14, 2020), or as of the time by which he was required to file his statement of use), such that Registrant's COMICS GATE mark should be considered void." A true and accurate copy of the petition for cancellation is attached herein as Exhibit E.

11. In support of its Cancellation, Petitioner likewise asserts that there was no use of the Subject Registration in commerce before the statement of use was filed, with Registrant's specimens indicating that the "project" was to be completed at some point in the future. See Exhibit E.

12. Furthermore, the Registrant, Antonio J. Malpica, seems to be well aware of this fact, and has already effectively **admitted** before the Trademark Trial and Appeal Board that he has not used his COMICS GATE mark in connection with all of the listed goods (i.e., comic books) of the Subject Registration. Moreover, the Registrant, Antonio J. Malpica, has admitted that his comic book for "Detective Dead," which as alluded to above, was the basis for Registrant's specimen submitted in his statement of use to register the Subject Registration with the USPTO **was not complete**. Specifically, the Registrant, Antonio J. Malpica stated "**It would also be very irresponsible of me to attempt to sell another book when my first one is yet to be**

done.” See Cancellation No. 90275375, 14 TTABVUE 14-15 (emphasis added). Indeed, on many such occasions, Mr. Malpica plainly admitted that he is not presently using his trademark. “I cannot sell another book until I fulfill my first. To release another book while the first one is still due is a poor business decision and would ruin my reputation as a creator.” *Id.* at 6. “After August 29th of 2019 I took the book off the store mode so I can focus on its production.” *Id.* at 8-9. “I cannot release a new book until the first one is done, or I will risk losing all my customers and the business I am attempting to build. That is why I must wait patiently for my creative team deliver the production pages of my comic book.” *Id.* at 9. “Again, my book is still under production and I cannot risk losing those customers by releasing a new book under the mark COMICS GATE when the first one is yet to be finished.” *Id.* “However, I cannot release another book under the mark COMICS GATE until my first book is done. It would damage the business I am trying to build.” *Id.* at 10. “There is date on the webpage where my book was sold, however, the book’s released has been delayed due to the slow process of my creative team’s work. When I released the campaign, the money that I received was used to pay my creative team... The attempt to invalidate my proof is solely based on my book’s original completion date, which is now very, very late... The book’s completion heavily depends on the working speed of my creative team.” *Id.* at 10-11. “The mark itself was going to be placed on my book upon its printing date when the production was complete... I have met the requirements explained here in Section (2) when I used the mark in advertisement of my book as seen in ‘EXHIBIT C’ and I have linked my customers to the first 26-27-page digital preview of the book they bought into thus being a rendered service in commerce across the United States and internationally.” *Id.* at 11-12. “Again, the Petitioner references the projected completion date of my book, any independent creator knows when you try to fund a book from scratch with only a

few images to engage your buyer, it takes time for its completion.” *Id.* at 13. “It does not indicate a release date because the production depends on the speed and availability of my creative team.” *Id.* at 14. “During and after the closing my store, I have issued refunds to customers for the delayed production of my book.” *Id.* A copy of Registrant’s responses is attached as Exhibit F.

12. Additionally, on March 10, 2022, I searched Google for the phrase "ANTONIO MALPICA COMICSGATE". None of the results showed use of the Subject Registration by the Registrant, Antonio J. Malipica. Instead, the results consisted of (1) a Twitter website page regarding the procedural history of Cancellation No. 92075375; (2) a third-party website reproducing publicly available USPTO content regarding the Subject Registration; (3) websites reproducing content from the USPTO; (4) documents filed at the Trademark Trial and Appeal Board; (5) third party opinions regarding Cancellation No. 92075375; and (6) other unrelated websites. A true and accurate copy of the google search is attached herein as Exhibit G.

13. On or around March 10, 2022, and through further investigation based upon the above Google search, I also became aware of other third parties complaining of their lack of receipt of a “Detective Dead” comic, which as referenced above was not completed by the Registrant despite being the specimen of use used to obtain registration of the Subject Registration. Specifically, by following the link to the Twitter website referenced above, and taken in conjunction with the indiegogo website described earlier, it is clear that the Registrant, Mr. Malpica, did not finish his “Detective Dead” comic as of the filing of his Statement of Use on April 24, 2020, or as of the registration date of his mark (July 14, 2020), or as of the time by which he was required to file his statement of use under section 1(d). Specifically, the third parties, in conversation with another, state as follows: “Is Antonio Malpica the guy who owes me

a Detective Dead?” In response, a second user stated “You and me both. Last I heard he was still getting pages from the artists but who knows?” The first user replied back that he was “still f***ing waiting” and that October 31, 2018 was “the date of my contribution.” The second user responded “I hear you. I bought my copy on Feb. 20, 2019. Still looking forward to it.” As is plainly evident, third parties have still yet to receive their comic book from Mr. Malpica, who himself has stated that the “first one is yet to be done.” Furthermore, the above conversation took place in July 2021, **a year after** Registrant received the registration certificate for the Subject Registration. A true and correct copy of the Twitter website is attached as Exhibit H.

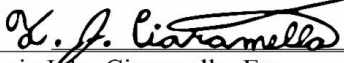
14. As outlined above, I have conducted a reasonable investigation of nonuse of the Subject Registration in connection with the Subject Goods by searching the following reasonably accessible sources where evidence concerning use of the Subject Registration during the relevant time period on or in connection with the relevant goods would normally be found: a. Federal trademark records; b. Web pages likely to contain reviews or discussion of the relevant goods; and c. Records of administrative proceedings reasonably likely to contain evidence bearing on the Registrant's use or nonuse of the registered mark.

15. Based upon the foregoing reasonable investigation of nonuse, on information and belief, the Subject Registration was not in use in commerce by Registrant Antonio J. Malpica in connection with the goods of the Subject Registration as of the filing of his Statement of Use on April 24, 2020, or as of the registration date of his mark (July 14, 2020), or as of the time by which he was required to file his statement of use under section 1(d).

WHEREFORE, Petitioner, by its attorneys, deems that it is being damaged by Reg. No. 6,102,744, and respectfully requests that this petition for reexamination be granted.

FRANCIS JOHN CIARAMELLA, PLLC

Counsel for the Petitioner
110 Front Street
Suite 300
Jupiter, Florida 33477
Telephone No. (561) 295-7325
Facsimile No. (561) 295-7355

By: 
Francis John Ciarabella, Esq.
Florida Bar No. 111927

Dated: March 23, 2022

Exhibit A

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 88102778

Filing Date: 09/03/2018

NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
* MARK	Comics Gate
* STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	Comics Gate
* MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
* OWNER OF MARK	Malpica, Antonio J.
* STREET	88 S Jefferson St
* CITY	Beverly Hills
* STATE (Required for U.S. applicants)	Florida
* COUNTRY	United States
* ZIP/POSTAL CODE (Required for U.S. and certain international addresses)	34465
PHONE	352-249-7485
EMAIL ADDRESS	XXXX
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
LEGAL ENTITY INFORMATION	
* TYPE	INDIVIDUAL
* COUNTRY OF CITIZENSHIP	United States
GOODS AND/OR SERVICES AND BASIS INFORMATION	
* INTERNATIONAL CLASS	016
* IDENTIFICATION	Comics

* FILING BASIS	SECTION 1(b)
ADDITIONAL STATEMENTS INFORMATION	
* TRANSLATION (if applicable)	
* TRANSLITERATION (if applicable)	
* CLAIMED PRIOR REGISTRATION (if applicable)	
* CONSENT (NAME/LIKENESS) (if applicable)	
* CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	
* NAME	Malpica, Antonio J.
* STREET	88 S Jefferson St
* CITY	Beverly Hills
* STATE (Required for U.S. addresses)	Florida
* COUNTRY	United States
* ZIP/POSTAL CODE	34465
PHONE	352-249-7485
* EMAIL ADDRESS	AntonioJMalpica@gmail.com
* AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	1
FEE PER CLASS	225
* TOTAL FEE PAID	225
SIGNATURE INFORMATION	
* SIGNATURE	/Antonio J. Malpica/
* SIGNATORY'S NAME	Antonio J. Malpica
* SIGNATORY'S POSITION	Owner
SIGNATORY'S PHONE NUMBER	352-249-7485
* DATE SIGNED	09/03/2018

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 88102778

Filing Date: 09/03/2018

To the Commissioner for Trademarks:

MARK: Comics Gate (Standard Characters, see [mark](#))

The mark in your application is Comics Gate.

The applicant, Antonio J. Malpica, a citizen of United States, having an address of

88 S Jefferson St
Beverly Hills, Florida 34465
United States
352-249-7485(phone)
XXXX

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 016: Comics

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services. (15 U.S.C. Section 1051(b)).

The applicant's current Correspondence Information:

Malpica, Antonio J.
88 S Jefferson St
Beverly Hills, Florida 34465
352-249-7485(phone)
AntonioJMalpica@gmail.com (authorized)

E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or the applicant's attorney, or the applicant's domestic representative at the e-mail address provided in this application. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in the loss of TEAS Plus status and a requirement to submit an additional processing fee of \$125 per international class of goods/services.

A fee payment in the amount of \$225 has been submitted with the application, representing payment for 1 class(es).

Declaration

☒ Basis:

If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):

- The signatory believes that the applicant is the owner of the trademark/service mark sought to be registered;
- The mark is in use in commerce on or in connection with the goods/services in the application;
- The specimen(s) shows the mark as used on or in connection with the goods/services in the application; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

AND/OR

If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d),

and/or § 1126(e):

- The signatory believes that the applicant is entitled to use the mark in commerce;
 - The applicant has a bona fide intention to use the mark in commerce on or in connection with the goods/services in the application; and
 - To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.
- ☒ To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.
- ☒ To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- ☒ The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Antonio J. Malpica/ Date: 09/03/2018

Signatory's Name: Antonio J. Malpica

Signatory's Position: Owner

Signatory's Phone Number: 352-249-7485

Payment Sale Number: 88102778

Payment Accounting Date: 09/04/2018

Serial Number: 88102778

Internet Transmission Date: Mon Sep 03 18:59:15 EDT 2018

TEAS Stamp: USPTO/FTK-XX.XXX.XX.XXX-2018090318591511

8869-88102778-610185ca7de9caeb921b23f495

171f15e687e337e63bcd257858ae97f7ebfd711

-CC-10198-20180903185014844603

Comics Gate

Exhibit B

Trademark/Service Mark Statement of Use (15 U.S.C. Section 1051(d))

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	88102778
LAW OFFICE ASSIGNED	LAW OFFICE 111
MARK SECTION	
MARK	mark
LITERAL ELEMENT	COMICS GATE
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
MISCELLANEOUS STATEMENTS SECTION	
MISCELLANEOUS STATEMENT	This is 1 of 4 covers that I have. This one in particular has the words ComicsGate written in a word bubble.
MISCELLANEOUS FILE NAME(S)	\\TICRS\EXPORT18\IMAGEOUT 18\881\027\88102778.xml5\ SOU0005.JPG
OWNER SECTION (current)	
NAME	Malpica, Antonio J.
MAILING ADDRESS	88 S Jefferson St
CITY	Beverly Hills
STATE	Florida
ZIP/POSTAL CODE	34465
STATE/COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
PHONE	352-249-7485
EMAIL	XXXX
OWNER SECTION (proposed)	
NAME	Malpica, Antonio J.
MAILING ADDRESS	88 S Jefferson St
CITY	Beverly Hills
STATE	Florida
ZIP/POSTAL CODE	34465
STATE/COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States

PHONE	352-249-7485
EMAIL	XXXX
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	016
CURRENT IDENTIFICATION	Comics
GOODS OR SERVICES	KEEP ALL LISTED
FIRST USE ANYWHERE DATE	09/07/2018
FIRST USE IN COMMERCE DATE	09/07/2018
SPECIMEN FILE NAME(S)	\\TICRSEXPORT18\IMAGEOUT 18\881\027\88102778.xml5 \SOU0002.JPG
	\\TICRSEXPORT18\IMAGEOUT 18\881\027\88102778.xml5 \SOU0003.JPG
	\\TICRSEXPORT18\IMAGEOUT 18\881\027\88102778.xml5 \SOU0004.JPG
SPECIMEN DESCRIPTION	These attachments are images of my use of the mark in question. I used the Mark as I was selling my book via crowdfund through indiegogo. The first image shows the date when my campaign was funded and it shows the display of my mark. The second image shows the first sales of my book which was sold during the use of my mark. The third image is of my youtube channel with the promotional video of my book and a clear image of the use of my mark to advertise my book.
PAYMENT SECTION	
NUMBER OF CLASSES IN USE	1
SUBTOTAL AMOUNT [ALLEGATION OF USE FEE]	100
TOTAL AMOUNT	325
SIGNATURE SECTION	
	/Antonio J. Malpica/
SIGNATORY'S NAME	Malpica, Antonio, J
SIGNATORY'S POSITION	Owner
DATE SIGNED	04/24/2020
DECLARATION SIGNATURE	/Antonio J. Malpica/
SIGNATORY'S NAME	Malpica, Antonio, J
SIGNATORY'S POSITION	Owner
DATE SIGNED	04/24/2020
FILING INFORMATION	
SUBMIT DATE	Fri Apr 24 12:34:59 ET 2020
TEAS STAMP	USPTO/PSE-XX.XXX.XXX.XXX- 20200424123459878730-8810 2778-710e88ee34b671348bc5 3f027986b1496015c9a1c7d68 876ea3b83cd554bfd-CC-3457 3371-20200424115149018239

Trademark/Service Mark Statement of Use
(15 U.S.C. Section 1051(d))

To the Commissioner for Trademarks:

MARK: COMICS GATE(Standard Characters, see <https://tmng-al.uspto.gov/resting2/api/img/88102778/large>)

SERIAL NUMBER: 88102778

OWNER AND/OR ENTITY INFORMATION

The owner proposes to amend the following:

Current: Malpica, Antonio J., having an address of

88 S Jefferson St
Beverly Hills, Florida 34465
United States
Phone: 352-249-7485
Email: XXXX

Proposed: Malpica, Antonio J., having an address of

88 S Jefferson St
Beverly Hills, Florida 34465
United States
Phone: 352-249-7485
Email: XXXX

The owner is submitting the following allegation of use information:

For International Class 016:

Current identification: Comics

The mark is in use in commerce on or in connection with all of the goods/services, or to indicate membership in the collective organization listed in the application or Notice of Allowance or as subsequently modified for this specific class.

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 09/07/2018, and first used in commerce at least as early as 09/07/2018, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) These attachments are images of my use of the mark in question. I used the Mark as I was selling my book via crowdfund through indiegogo. The first image shows the date when my campaign was funded and it shows the display of my mark. The second image shows the first sales of my book which was sold during the use of my mark. The third image is of my youtube channel with the promotional video of my book and a clear image of the use of my mark to advertise my book..

[Specimen File1](#)

[Specimen File2](#)

[Specimen File3](#)

MISCELLANEOUS STATEMENTS

This is 1 of 4 covers that I have. This one in particular has the words ComicsGate written in a word bubble.

[Miscellaneous File1](#)

A fee payment in the amount of \$100 will be submitted with the form, representing payment for the petition fee.

A fee payment in the amount of \$125 will be submitted with the form, representing payment for the extension fee.

A fee payment in the amount of \$100 will be submitted with the form, representing payment for the allegation of use for 1 class.

Declaration

DECLARATION: The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

STATEMENTS FOR PETITION TO REVIVE: The signatory believes that he/she has firsthand knowledge that the applicant's failure to timely file a statement of use (SOU) or request for an extension of time to file a statement of use (extension request) was unintentional; and requests that the USPTO revive the application.

STATEMENTS FOR SOU: The signatory believes that: if the applicant is filing the SOU under 15 U.S.C. §1051(d), the applicant is the owner of the mark sought to be registered; for a trademark or service mark application, the applicant is using the mark in commerce on or in connection with all the goods/services in the notice of allowance or as subsequently modified; for a collective trademark, collective service mark, or collective membership mark application, the applicant is exercising legitimate control over the use of the mark in commerce by members on or in connection with the goods/services/collective membership organization in the notice of allowance or as subsequently modified; for a certification mark application, the applicant is exercising legitimate control over the use of the mark in commerce by authorized users on or in connection with the goods/services in the notice of allowance or as subsequently modified and the applicant is not engaged in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant; that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive; and the specimen(s) shows the mark as used on or in connection with the goods/services/collective membership organization in commerce.

STATEMENTS FOR EXTENSION REQUEST: The signatory believes that: if the applicant is filing the extension request under 15 U.S.C. §1051(d), for a trademark or service mark application, the applicant has a continued bona fide intention to use the mark in commerce on or in connection with all the goods/services under §1(b) in the notice of allowance or as subsequently modified; for a collective trademark, collective service mark, or collective membership mark application, the applicant has a continued bona fide intention to exercise legitimate control over the use of the mark in commerce on or in connection with the goods/services/collective membership organization in the notice of allowance or as subsequently modified; for a certification mark application, the applicant has a continued bona fide intention to exercise legitimate control over the use of the mark in commerce in connection with the goods/services in the notice of allowance or as subsequently modified and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant; and that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive.

DECLARATION: The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

STATEMENTS FOR PETITION TO REVIVE: The signatory believes that he/she has firsthand knowledge that the applicant's failure to timely file a statement of use (SOU) or request for an extension of time to file a statement of use (extension request) was unintentional; and requests that the USPTO revive the application.

STATEMENTS FOR SOU: The signatory believes that: if the applicant is filing the SOU under 15 U.S.C. §1051(d), the applicant is the owner of the mark sought to be registered; for a trademark or service mark application, the applicant is using the mark in commerce on or in connection with all the goods/services in the notice of allowance or as subsequently modified; for a collective trademark, collective service mark, or collective membership mark application, the applicant is exercising legitimate control over the use of the mark in commerce by members on or in connection with the goods/services/collective membership organization in the notice of allowance or as subsequently modified; for a certification mark application, the applicant is exercising legitimate control over the use of the mark in commerce by authorized users on or in connection with the goods/services in the notice of allowance or as subsequently modified and the applicant is not engaged in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant; that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive; and the specimen(s) shows the mark as used on or in connection with the goods/services/collective membership organization in commerce.

STATEMENTS FOR EXTENSION REQUEST: The signatory believes that: if the applicant is filing the extension request under 15 U.S.C. §1051(d), for a trademark or service mark application, the applicant has a continued bona fide intention to use the mark in commerce on or in

connection with all the goods/services under §1(b) in the notice of allowance or as subsequently modified; for a collective trademark, collective service mark, or collective membership mark application, the applicant has a bona fide intention to exercise legitimate control over the use of the mark in commerce by members on or in connection with the goods/services/collective membership organization in the notice of allowance or as subsequently modified; for a certification mark application, the applicant has a bona fide intention to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the goods/services in the notice of allowance or as subsequently modified and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant; and that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive.

Signature: /Antonio J. Malpica/ Date Signed: 04/24/2020

Signatory's Name: Malpica, Antonio, J

Signatory's Position: Owner

RAM Sale Number: 88102778

RAM Accounting Date: 04/24/2020

Serial Number: 88102778

Internet Transmission Date: Fri Apr 24 12:34:59 ET 2020

TEAS Stamp: USPTO/PSE-XX.XXX.XXX.XXX-202004241234598

78730-88102778-710e88ee34b671348bc53f027

986b1496015c9a1c7d68876ea3b83cd554bfd-CC

-34573371-20200424115149018239

Detective Dead: Crimson Moon

indiegogo.com/projects/detective-dead-crimson-moon/v/18972402?create_edit=true#/

DASHBOARD

CAMPAIGN INSIGHTS

PERKS REPORT

ITEMS REPORT

PERKS CLAIMED & DONATIONS

FINANCES

REFERRALS

RESOURCES

STORY

FAQ

UPDATES 43

COMMENTS 178

Highlights

2 Projects

Overview

Detective Joel Scorn, murdered in 1932 comes back to life in modern time, but he's not alone. Hunted by the criminal who murdered his family, he must master his new abilities in order to save the only family he has left.

Come join Detective Dead on this action packed 132 page graphic novel!

ALL BOOKS WILL BE SIGNED. This is a 132-page GRAPHIC NOVEL!

This is going to be one of the best Comics Gate projects to rest on your shelves.

****INSTRUCTIONS FOR FREE COPY DOWN BELOW****

ROD LUPER

DONAL DELAY

Select a perk

FEATURED

Your Choice Cover

\$40 USD ~~\$66~~ (38% OFF)

This tier offers the option to pick a hardcover from your favorite artist. You get to choose from these well known artist: Donal Delay, Mike Miller, and Canaan White!! Look below in the campaign page to see their covers.

Included Items

Detective Dead Digital Copy

8"x11" DD Thank You Poster

Your Choice Hardcover

Estimated Shipping

October 2019

10:24 PM

GO

Detective Dead: Crimson Moon

X

+

indiegogo.com/command_center/detective-dead-crimson-moon#/orders_and_donations/main

☆

Antonio

ENDED CAMPAIGN

DETECTIVE DEAD: CRIMSON MOON

VIEW CAMPAIGN

UPDATES

COMMENTS

CAMPAIGN EDITOR

DASHBOARD

CAMPAIGN INSIGHTS

PERKS REPORT

ITEMS REPORT

PERKS CLAIMED & DONATIONS

FINANCES

REFERRALS

RESOURCES

INDIEGOGO

Explore

What We Do

For Entrepreneurs

Start a Campaign

Dashboard / Perks Claimed & Donations

Perks Claimed & Donations

Use the table below to look up details for a specific contribution or customize what you see by filtering contributions. You can add tracking information to individual perks by clicking on a specific perk. To add tracking for a batch of perks, export the CSV, add information to the carrier and tracking number columns, and then import the CSV. [Learn more about perks & tracking information](#)

Filter by Perk

Filter by Shipping Country

Search by contributor name or email

IMPORT CSV

EXPORT CSV

ALL CONTRIBUTIONS

PLACED 1,150

LOCKED

FULFILLED

Showing all 1167 contributions.

Type	Date	Contributor	Perks	Shipping	Tracking	Payment	Fulfillment	Total
Contribution-1	Sep 7, 2018	Michael [REDACTED]@yahoo.com	Vigilante Package	[REDACTED] Aloha, OR 97003 United States	-	PAID	PLACED	\$55
Contribution-2	Sep 7, 2018	beanfrompa [REDACTED]@yahoo.com	Detective Dead Bundle	[REDACTED] New Castle, PA 16101 United States	-	PAID	PLACED	\$25

(1) Detective Dead Promo - You...
youtube.com/watch?v=mB2Lg0bk5WY

Search

YouTube

A Comics Gate
Production

0:03 / 3:54

Detective Dead Promo

137 views · Sep 7, 2018

21

0

SHARE

SAVE

...

Cridious

702 subscribers

ANALYTICS

EDIT VIDEO

Up next

AUTOPLAY

10 Best Unlockables You CANT
PAY TO UNLOCK - Part 2

gamerzntz

606K views · 3 days ago

New

ABYSS - A Darksynth Cyber
Horror Mix Special

Astral Throb

Recommended for you

New

VIRUS - A Cold Darksynth
Synthwave Mix

Astral Throb

Recommended for you

Don't Name Your Kids
Something Stupid. Dwayne...

Dry Bar Comedy

Recommended for you

CYBERPUNK | 2-Hours Epic
Music Mix - THE POWER OF...

Pandora Journey

Recommended for you

CHARGE - A Pure Darksynth
Synthwave Cyberpunk Special...

Astral Throb

Recommended for you

Back To The 80's | Best of
Synthwave And Retro Electro...

ThePrimeThanatos

Recommended for you

It's Not Racist if it's True. BT -
Full Special

Dry Bar Comedy

Recommended for you

New

White Stereotypes

22:59

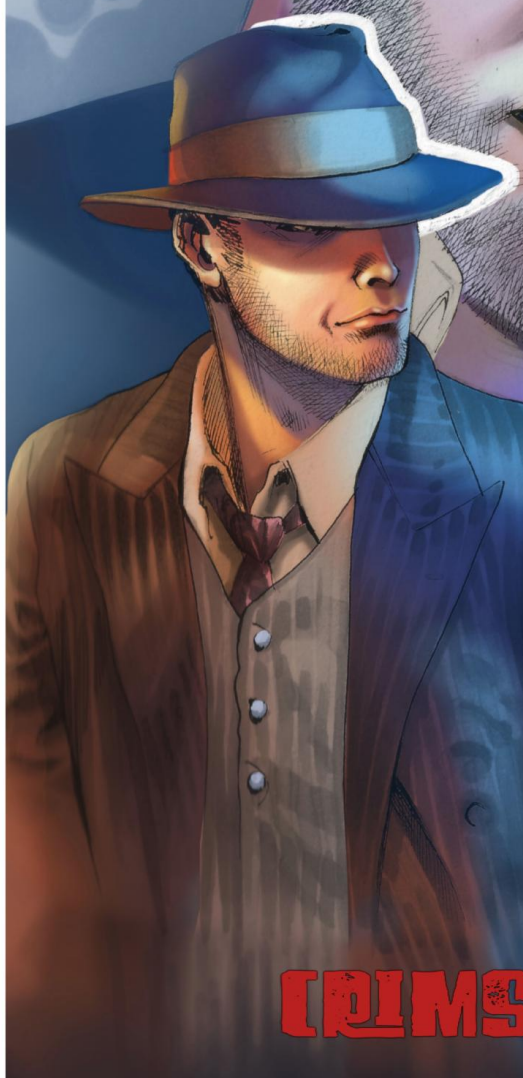
CRIDIOUS, LUPER, EDUARDO, AYAMI, REED, FERNANDEZ.



HERITAGE
COMICS

1 2019
10¢
OCT

DETECTIVE DEAD



A
COMICSGATE
PRODUCTION

CRIMSON MOON

FEE RECORD SHEET**Serial Number:** 88102778**RAM Sale Number:** 88102778**Total Fees:** \$325**RAM Accounting Date:** 20200424

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Total Fee</u>
*** UNKNOWN ***	7005	20200424			\$100
Extension Request for SOU	7004	20200424	\$125	1	\$125
Statement of Use (SOU)	7003	20200424	\$100	1	\$100

Transaction Date: 20200424

Exhibit C

United States of America

United States Patent and Trademark Office

Comics Gate

Reg. No. 6,102,744

Registered Jul. 14, 2020

Int. Cl.: 16

Trademark

Principal Register

Malpica, Antonio J. (UNITED STATES INDIVIDUAL)
88 S. Jefferson St
Beverly Hills, FLORIDA 34465

CLASS 16: Comics

FIRST USE 9-7-2018; IN COMMERCE 9-7-2018

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

No claim is made to the exclusive right to use the following apart from the mark as shown:
"COMICS"

SER. NO. 88-102,778, FILED 09-03-2018



Andrei Iancu

Director of the United States
Patent and Trademark Office



REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION

WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.

Requirements in the First Ten Years*
What and When to File:

- First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*
What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

*ATTENTION MADRID PROTOCOL REGISTRANTS: The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

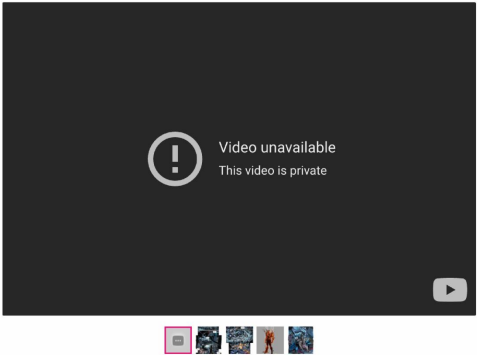
NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.

Exhibit D

ABOUT THIS CAMPAIGN






CLOSED

Detective Dead: Crimson Moon


A 1932 Detective is resurrected in modern day to stop criminals from his past with unique abilities.

 **Antonio Malpica**
2 Campaigns | Florida, United States

\$38,855 USD by 1,153 backers
\$22,700 USD by 667 backers on Oct 8, 2018

STORY FAQ **UPDATES 45** COMMENTS 211

 by **Antonio Malpica**
Sep 8, 2020 • 11:02PM

over 1 year ago

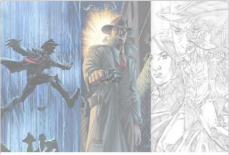
Detective Dead 27-Page Preview

Hey Everyone,

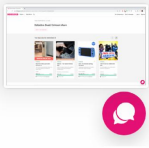
I want to ask for your forgiveness on the quietness of this campaign, I realize that there are no words that I can write to express my sincere apologies. With that being said, I can say is that it is still being made and I am still receiving artwork.


Attached to this update, is an early 27-page preview of Detective Dead in which you can view with the list provided below. When I can say, there are some interesting pages that

Select a perk



FEATURED





by Antonio Malpica
Sep 8, 2020 • 11:02PM

over 1 year ago

Detective Dead 27-Page Preview

Hey Everyone,

I want to ask for your forgiveness on the quietness of this campaign, I realize that there are no words that I can write to express my sincere apologies. With that being said, I can say is that it is still being made and I am still receiving artwork.

Attached to this update, is an early 27-page preview of Detective Dead in which you can view with the link provided below. When I say early, there are some interior pages that need to be added between the beginning of the story and cover. I had a little issue resizing the cover so it's a tad huge compared to the interior pages.

Anyhow, I hope you like what you see and read.

[https://www.dropbox.com/s/3ijmc8e0d638wy4/Detective...](https://www.dropbox.com/s/3ijmc8e0d638wy4/Detective%20Dead%2027%20Page%20Preview.pdf?dl=1)



by Antonio Malpica
May 6, 2020 • 2:52PM

almost 2 years ago


More Pages...

Hey Everyone,

I wanted to update you by sharing some Detective Dead pages. Sorry for the delayed updates, I like waiting for 3-4 pages to come in before reaching out to you all. Anyhow, I hope you enjoy them. Have yourselves a safe week.

God bless you all.

Select a perk



FEATURED

Your Choice Cover

\$40 USD ~~\$66.45~~ (38% OFF)

This tier offers the option to pick a hardcover from your favorite artist. You get to choose from these well known artist: Donal Delay, Mike Miller, and Canaan White!! Look below in the campaign page to see their covers.

Included Items

- Detective Dead Digital Copy
- 8"x11" DD Thank You Poster
- Your Choice Hardcover

Estimated Shipping
October 2019

39 out of 500 claimed

Ships worldwide.

Detective Dead Bundle

\$20 USD ~~\$40.45~~ (50% OFF)

x1 Physical Copy of the 132-Page Detective Dead Crimson Moon v1 Digital Copy of the



by Antonio Malpica
Apr 4, 2020 • 2:33PM

almost 2 years ago

Small, tiny update...

Hey Everyone! I hope you are doing fine and staying safe. Please be courteous to others during this hard time in all our lives. A little kindness goes a long way. Now onto the update. I just received the colors on the cover Caanan did for the book and wanted to share the two versions with you. It was a tough choice to pick one because they're both are amazing. Anyhow, I hope you enjoy it also.



estimated shipping

April 2019

763 claimed

Ships worldwide.

Mike Miller Signed
Hardcover

\$50 USD

This tier features a signed 132-page Detective Dead Hardcover book signed by Mike Miller and myself.

Included Items

- Rare MIKE MILLER Signed Copy

Estimated Shipping

October 2019

29 claimed

Ships worldwide.

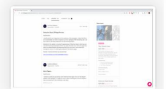


Exhibit E

ESTTA Tracking number: **ESTTA1085907**

Filing date: **10/01/2020**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

Petitioner Information

Name	Common Sense Press Inc DBA Pocket Jacks Comics		
Entity	Corporation	Citizenship	Texas
Address	12471 WOOD MANOR CIR DALLAS, TX 75234 UNITED STATES		
Attorney information	FRANCIS JOHN CIARAMELLA, ESQUIRE FRANCIS JOHN CIARAMELLA, PLLC 110 FRONT STREET, SUITE 300 JUPITER, FL 33477 UNITED STATES Primary Email: frank@fjcpllc.com 5612957325		
Docket Number			

Registration Subject to Cancellation

Registration No.	6102744	Registration date	07/14/2020
Registrant	Malpica, Antonio J. 88 S JEFFERSON ST BEVERLY HILLS, FL 34465 UNITED STATES		

Goods/Services Subject to Cancellation

Class 016. First Use: 2018/09/07 First Use In Commerce: 2018/09/07 All goods and services in the class are subject to cancellation, namely: Comics

Grounds for Cancellation

No use of mark in commerce before application, amendment to allege use, or statement of use was filed	Trademark Act Sections 14(1) and 1(a), (c), and (d)
Abandonment	Trademark Act Section 14(3)
Fraud on the USPTO	Trademark Act Section 14(3); In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)

Attachments	Petition for Cancellation.pdf(777065 bytes)
-------------	--

Signature	/Francis John Ciaramella/
Name	Francis John Ciaramella, Esquire
Date	10/01/2020

In the matter of:	Registration No. 6,102,744
Date of Registration:	July 14, 2020
Mark:	COMICS GATE

Cancellation No. _____

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Petitioner, COMMON SENSE PRESS INC DBA POCKET JACKS COMICS (hereinafter, “Petitioner”), a Texas corporation with a principal address of 12471 Wood Manor Circle, Dallas, TX 75234 believes that it will be damaged by the continued registration of the mark shown in Reg. No. 6,102,744 (hereinafter, “Registration”) owned by ANTONIO J. MALPICA (hereinafter, “Registrant”), an individual with a principal address of 88 S Jefferson St, Beverly Hills, FL 34465.

Page 1 of 8
Francis John Ciaramella, PLLC
110 Front Street, Suite 300, Jupiter, FL 33477 • Telephone (561) 294-7325 • Facsimile (561) 295-7355

1. Petitioner would be damaged by the continued registration of the COMICS GATE mark because Petitioner currently owns U.S. Trademark Application Nos. 88/872,841 and 88/925,542 for the mark COMICSGATE, covering comic books (hereinafter, “Applications”).
2. On September 3, 2018, Registrant filed a trademark application seeking registration for the mark COMICS GATE in connection with “comics” in Class 016. The application was assigned Application Serial No. 88/102,778. Registrant’s registration was initially filed under Section 1(b) of the Trademark Act.
3. On April 24, 2020, Registrant filed a statement of use claiming a date of first use in commerce of September 7, 2018.
4. Registrant’s application was granted registration on July 14, 2020 and issued under Registration No. 6,102,744 in connection with comics.
5. Petitioner is being harmed by the Registration owned by Registrant because on July 6, 2020, the U.S. Patent and Trademark Office issued a non-final Office Action and Suspension letter against the registration of the two COMICSGATE Applications owned by Applicant, citing a likelihood of confusion with the COMICS GATE Registration.

COUNT I: ABANDONMENT AND NON-USE

6. The Petitioner realleges the allegations of paragraphs 1-5 as if set forth fully herein.
7. Upon information and belief, Registrant has abandoned the mark for COMICS GATE, which is the subject of Registration No. 6,102,744.
8. Upon information and belief, Registrant is not currently using, has discontinued using, and has not used for at least the past three years, and possibly longer, the COMICS

GATE mark as a trademark in the United States designating the source of “comics” in Class 016.

9. Upon information and belief, Registrant’s discontinuance of use of the mark COMICS GATE on or in connection with the goods and services as set forth in Registration No. 6,102,744 was accompanied by Registrant’s intent not to resume use of the mark COMICS GATE on or in connection with such goods and services.
10. Petitioner is damaged and will continue to be damaged because Registrant’s continued Registration of the COMICS GATE mark stands as a bar to Petitioner’s ability to federally register and protect its trademarks as set forth in the its Applications.

COUNT II: FRAUD

11. The Petitioner realleges the allegations of paragraphs 1-5 as if set forth fully herein.
12. On April 24, 2020, Registrant signed a declaration under oath when he filed a statement of use with the U.S. Trademark Office declaring that the mark COMICS GATE was in use in commerce on or in connection with all of the goods/services listed in the application. Upon information and belief, such statements were false at the time they were made by the Registrant.
13. Upon information and belief, prior to the filing of Registrant’s statement of use, and after registration, Registrant had not used the mark COMICS GATE in conjunction with “comics.”
14. Upon information and belief, Registrant currently is not using the COMICS GATE trademark in commerce since the date of registration for all the goods listed in his Registration.

15. Upon information and belief, Registrant knew that his statements regarding his statement of use of the COMICS GATE trademark were false at the time such statements were made.
16. Upon information and belief, at the time of committing the acts alleged herein, Registrant knowingly made such false, material misrepresentations with the intent to deceive the USPTO, as well as the relevant consuming public, and such false, material misrepresentations were relied upon by the USPTO.
17. Upon information and belief, Registrant obtained the registration of his mark fraudulently by knowingly making a false, material, and intentionally deceptive representation to the USPTO that Registrant had used his Registration in commerce when he had not.
18. Upon information and belief, Registrant's acts and material misrepresentations alleged herein represent a conscious effort by Registrant to attempt to procure a registration for the Registrant's COMICS GATE mark to which Registrant knew he was not entitled.
19. Therefore, Registrant's actions in connection with the attempt to register the Registrant's COMICS GATE mark constitute fraud.
20. As a result, the COMICS GATE registration is invalid, and, therefore, the registration should be cancelled.

**COUNT III: NO USE OF THE MARK IN COMMERCE BEFORE
STATEMENT OF USE WAS FILED**

21. The Petitioner realleges the allegations of paragraphs 1-5 as if set forth fully herein.
22. On April 24, 2020, Registrant signed a declaration under oath when he filed a statement of use with the U.S. Trademark Office declaring that the mark COMICS GATE was in

use in commerce on or in connection with all of the goods/services listed in the application.

23. Upon information and belief, Registrant had not used the COMICS GATE mark in connection with all of listed goods as of April 24, 2020.
24. Upon information and belief, Registrant currently is not using the COMICS GATE mark in connection with all of the listed goods.
25. In filing his statement of use, Registrant submitted attachments purportedly showing use of the Registration. Specifically, Registrant stated under oath that “I used the Mark as I was selling my book via crowdfund through indiegogo. The first image shows the date when my campaign was funded and it shows the display of my mark. The second image shows the first sales of my book which was sold during the use of my mark. The third image is of my youtube channel with the promotional video of my book and a clear image of the use of my mark to advertise my book.”
26. The first image submitted by Registrant does not show use of the COMICS GATE mark in commerce in connection with comics. Specifically, the first image notes that “this is going to be one of the best Comics Gate projects to rest on your shelves.” Registrant’s own specimen of use indicates that the “project” may be available at some future date, and that it is not presently available (i.e., “is going to be”). *See* Exhibit A.
27. As such, the first image submitted by Registrant does not demonstrate trademark use within the meaning of the Lanham Act.
28. The second image submitted by Registrant does not show use of the COMICS GATE mark in commerce in connection with comics. Despite Registrant’s claims to the contrary, the second image does not show any sales. In reality, the second image only

shows purported “contributions” rather than actual sales, suggesting that the “project” may be available at some future date. *See* Exhibit B.

29. As such, the second image submitted by Registrant does not demonstrate trademark use within the meaning of the Lanham Act.

30. The third image submitted by Registrant does not show use of the COMICS GATE mark in commerce in connection with comics. According to the Registrant, the third image shows a screenshot of a “promotional video.” Like, the first two images, this “promotional video” does not demonstrate actual sales and indicates that the “project” may be available at some future date (i.e., it is promoting its potential future release). *See* Exhibit C.

31. As such, the third image submitted by Registrant does not demonstrate trademark use within the meaning of the Lanham Act.

32. Upon information and belief, Registrant had not used his mark in commerce as of the filing of his Statement of Use on April 24, 2020 (or as of the registration date of his mark (July 14, 2020), or as of the time by which he was required to file his statement of use), such that Registrant’s COMICS GATE mark should be considered void.

33. Petitioner alleges that Registrant’s Registration should be cancelled due to non-use, abandonment, and/or fraud on the USPTO.

WHEREFORE, Petitioner, by its attorneys, deems that it is being damaged by Reg. No. 6,102,744, and respectfully requests that this petition be granted, and the COMICS GATE registration be cancelled.

FRANCIS JOHN CIARAMELLA, PLLC

Counsel for the Petitioner
110 Front Street
Suite 300
Jupiter, Florida 33477
Telephone No. (561) 295-7325
Facsimile No. (561) 295-7355

By: /Francis John Ciaramella/
Francis John Ciaramella, Esq.
Florida Bar No. 111927

Dated: October 1, 2020

CERTIFICATE OF SERVICE

Pursuant to Trademark Rules 2.105(a) and 2.113(a), effective January 14, 2017, the Board's notice of institution constitutes service.

Exhibit A

Detective Dead: Crimson Moon

indiegogo.com/projects/detective-dead-crimson-moon/x/18972402?create_edit=true#/

DASHBOARD

CAMPAIGN INSIGHTS

PERKS REPORT

ITEMS REPORT

PERKS CLAIMED & DONATIONS

FINANCES

REFERRALS

RESOURCES

STORY

FAQ

UPDATES 43

COMMENTS 178

Highlights

2 Projects

Overview

Detective Joel Scorn, murdered in 1932 comes back to life in modern time, but he's not alone. Hunted by the criminal who murdered his family, he must master his new abilities in order to save the only family he has left.

Come join Detective Dead on this action packed 132 page graphic novel!


ALL BOOKS WILL BE SIGNED. This is a 132-page GRAPHIC NOVEL!


This is going to be one of the best Comics Gate projects to rest on your shelves.

****INSTRUCTIONS FOR FREE COPY DOWN BELOW****


ROD LUPER

DONAL DELAY





Select a perk



FEATURED

Your Choice Cover

\$40 USD ~~\$65~~ (38% OFF)

This tier offers the option to pick a hardcover from your favorite artist. You get to choose from these well known artist: Donal Delay, Mike Miller, and Canaan White!! Look below in the campaign page to see their covers.

Included Items

Detective Dead Digital Copy

8"x11" DD Thank You Poster

Your Choice Hardcover

Estimated Shipping

October 2019

10:24 PM

Exhibit B

GO

Detective Dead: Crimson Moon

+

indiegogo.com/command_center/detective-dead-crimson-moon#/orders_and_donations/main

☆

Antonio

ENDED CAMPAIGN

DETECTIVE DEAD: CRIMSON MOON

VIEW CAMPAIGN

UPDATES

COMMENTS

CAMPAIGN EDITOR

DASHBOARD

CAMPAIGN INSIGHTS

PERKS REPORT

ITEMS REPORT

PERKS CLAIMED & DONATIONS

FINANCES

REFERRALS

RESOURCES

INDIEGOGO

Explore

What We Do

For Entrepreneurs

Start a Campaign

Antonio

Dashboard / Perks Claimed & Donations

Perks Claimed & Donations

Use the table below to look up details for a specific contribution or customize what you see by filtering contributions. You can add tracking information to individual perks by clicking on a specific perk. To add tracking for a batch of perks, export the CSV, add information to the carrier and tracking number columns, and then import the CSV. [Learn more about perks & tracking information](#)

Filter by Perk

Filter by Shipping Country

Search by contributor name or email

IMPORT CSV

EXPORT CSV

ALL CONTRIBUTIONS

PLACED 1,150

LOCKED 0

FULFILLED 0

Showing all 1167 contributions.

Type	Date	Contributor	Perks	Shipping	Tracking	Payment	Fulfillment	Total
Contribution-1	Sep 7, 2018	Michael [REDACTED]@yahoo.com	Vigilante Package	[REDACTED] Aloha, OR 97003 United States	-	PAID	PLACED	\$55
Contribution-2	Sep 7, 2018	beanfrompa [REDACTED]@yahoo.com	Detective Dead Bundle	[REDACTED] New Castle, PA 16101 United States	-	PAID	PLACED	\$25

🔍

📁

🛒

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📧

🔧

🌐

🏠

Exhibit C

(11) Detective Dead Promo - You...
youtube.com/watch?v=mB2Lg0bk5WY

Search

YouTube

A Comics Gate
Production

0:03 / 3:54

Detective Dead Promo

137 views · Sep 7, 2018

21

0

SHARE

SAVE

...

Cridious

702 subscribers

ANALYTICS

EDIT VIDEO

Up next

AUTOPLAY

10 Best Unlockables You CANT
PAY TO UNLOCK - Part 2

gamersam

606K views · 3 days ago

New

ABYSS - A Darksynth Cyber
Horror Mix Special

Astral Throb

Recommended for you

New

51:21

VIRUS - A Cold Darksynth
Synthwave Mix

Astral Throb

Recommended for you

49:44

Don't Name Your Kids
Something Stupid. Dwayne...

Dry Bar Comedy

Recommended for you

47:26

CYBERPUNK | 2-Hours Epic
Music Mix - THE POWER OF...

Pandora Journey

Recommended for you

2:02:53

CHARGE - A Pure Darksynth
Synthwave Cyberpunk Special...

Astral Throb

Recommended for you

54:22

'Back To The 80's' | Best of
Synthwave And Retro Electro...

ThePrimeThanatos

Recommended for you

2:01:30

It's Not Racist if it's True. BT -
Full Special

Dry Bar Comedy

Recommended for you

New

22:59

White Stereotypes

New

Exhibit F

ESTTA Tracking number: **ESTTA1094294**

Filing date: **11/09/2020**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92075375
Party	Defendant Malpica, Antonio J.
Correspondence Address	MALPICA, ANTONIO J. 88 S JEFFERSON ST BEVERLY HILLS, FL 34465 UNITED STATES Primary Email: AntonioJMalpica@gmail.com 352-249-7485
Submission	Other Motions/Submissions
Filer's Name	Antonio J. Malpica
Filer's email	AntonioJMalpica@gmail.com
Signature	Antonio/J/Malpica
Date	11/09/2020
Attachments	Antonio Malpica Certificate of Service.pdf(192951 bytes) Antonio Malpica Confidential.pdf(6551 bytes) Antonio Malpica ETTSA Answer Redacted.pdf(604896 bytes) Antonio Malpica ETTSA Answer.pdf(646032 bytes)

Antonio J Malpica
88 S Jefferson St.
Beverly Hills, FL 34465
Registration Number: 6102744
Cancellation No. 92075375

Certificate of Service
Submitted to Opposing Counsel's Party

FRANCIS JOHN CIARAMELLA, ESQUIRE
FRANCIS JOHN CIARAMELLA, PLLC
110 FRONT STREET, SUITE 300
JUPITER, FL 33477
UNITED STATES
Primary Email: frank@fjcpllc.com
Tel: 561.295.7325

I hereby certify that a true and complete copy of the foregoing (Answer to Cancellation) has been served on (COMMON SENSE PRESS INC DBA POCKET JACKS COMICS) by forwarding said copy on (NOVEMBER 9th, 2020), via email to: (FRANCIS JOHN CIARAMELLA, ESQUIRE, FRANK@FJCPLLC.COM).

Signature 

Date NOVEMBER 9th, 2020

CONFIDENTIAL

CONFIDENTIAL

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD

Common Sense Press Inc DBA Pocket Jacks Comics

v.

Malpica, Antonio J.

Cancellation No. 92075375

November 8, 2020

ANSWER AND COUNTERCLAIM

I will attempt to make my defense short in response to the Petitioner's accusations. I will answer each accusation in the order I have received them.

1. The request to cancel my Trademark Registration No. 6102744 is an infringement on my right(s) to the mark COMICS GATE which was filed on September 3, 2018. Months before the Petitioner filed the claims to the U.S. Trademark for Application(s) Nos. 88872841 and 88925542 for the mark COMICSGATE.

2. Petitioner cites section 1b of the Trademark Act and rightfully so. I have used the mark to sell my book and to promote other creator's comics books using YouTube. This was all done under the mark COMICS GATE Registration No. 6102744. I sold my comic book Detective Dead under the mark when I launched the project September 7-8th of 2018, 7-8 days after filing a registration for the mark. The mark COMICS GATE was also used on a previous campaign that failed utterly which was launched in July 1-2, 2018.

3. The Petitioner is correct. On April 24th of 2020, I filed the ITU. I took my time filing the ITU due to financial circumstances.

4. Correct. I was issued a registration certificate for the mark COMICS GATE Registration No. 6102744, legally and rightfully so.

5. Its is unfortunate that the Petitioner feels harmed over my legal Registration of the mark COMICS GATE issued July 6, 2020. I followed all the legal steps given to me by the USPTO. If the petitioner feels harmed by my mark COMICS GATE, he should have not attempted to perform a fraudulent claim over it.

6. The allegations from paragraphs 1-5 may seem valid to the Petitioner, but I have followed all the legal steps instructed on the USPTO website. I took additional steps by calling the USPTO to verify I still had claim over the mark.

7. The Petitioner is claiming he believed the mark COMICS GATE Registration No. 6102744 was abandoned. However, if this is what he believed, why did he offer to buy the mark from me? He was fully aware that I, and other independent creators were still using the mark. I would also like to reference 15 U.S.C. § 1127 when it states,

“A **mark** shall be deemed to be “abandoned” if either of the following occurs:

- (1) When its **use** has been discontinued with intent not to resume such **use**. Intent not to resume may be inferred from circumstances. Nonuse for 3 consecutive years shall be prima facie evidence of abandonment. “**Use**” of a **mark** means the bona

fide **use** of such **mark** made in the ordinary course of trade, and not made merely to reserve a right in a **mark**.”

According to what is stated in the paragraph above, I was well within in my legal right to revive the mark. The mark COMICS GATE was still in use by me and other creators who represent the mark. The Petitioner, is attempting to commit fraud and infringe on it by claiming it for himself while it is still in use.

8. The Petitioner is making a fraudulent claim stating that he believed the mark was not being used for at least three years, and possibly longer. The Petitioner and I have had previous conversations via email outside of the mark. On November 5th, of 2018, the Petitioner bought my comic book while the mark was in use. That was two years ago debunking his claim of three or more years ago. What he is stating is fraudulent. On February 26, 2020, The Petitioner reached out to me via my personal email on Google and the social media platform called Twitter and requested I sell him the mark. After I declined to sell him the mark, he took it upon himself to file Trademark Application(s) Nos. 88872841 and 88925542 for the mark COMICSGATE. He is knowingly infringing on my right to the mark COMICS GATE Registration No. 6102744. And he has failed to mention that I am not the only individual who has been using the mark which represents a broader community of hundreds, even thousands of people.

9. Once again the Petitioner’s belief is a fraudulent claim. If he was able to email me to purchase my mark, and have a conversation with me about an original comic art page from my book that he won and I mailed to him, then why did he not email me to verify if I have abandoned the COMICS GATE mark Registration No. 6102744 those “prior years” that he so claims? Again, I

own the mark but it's representative of a larger community that he has failed to mention. A community that to this very day continue to sell comic books under the mark COMICS GATE. The Petitioner and I have had previous conversations via email. If he neglected to reach out to me to verify if I still owned the mark, that was his failure. He should not have the right to infringe on what was rightfully awarded to me and my community of independent comic creators by the USPTO.

10. It is unfortunate that I am being accused of fraud when I have done everything legally via the USPTO standards. The fact that the Petitioner feels that my mark COMICS GATE Registration No. 6102744 damages his Trademark Application(s) Nos. 88872841 and 88925542 for the mark COMICSGATE is of his own doing. Why did he willingly file to infringe on my mark after I declined to sell it to him? If one should be accused of **FRAUD**, it should be the Petitioner.

11. The Petitioners allegations of paragraphs 1-5 have no merit and are based on his willingness to infringe on my mark COMICS GATE Registration No. 6102744.

12. On April 24, 2020, the statement I filed under Oath with the U.S. Trademark Office for the mark COMICS GATE, was true to the best of my knowledge and belief and I understand that proven otherwise I could face unfortunate consequences. However, the mark was in use by me on July 1-2 of 2018 when I attempted to sell my comic book Detective Dead in my first failed campaign. As stated above sometime from September 7-8th of 2018 I began selling my comic book Detective Dead under the COMICS GATE mark when I relaunched my campaign a second time. Aside from selling books, I was also using the mark to promote other creator's comic

books. Other creators were using the mark to sell their own books via the INDIEGOGO public platform. There is no false statement in my filing, and I have not violated the oath under the U.S. Trademark Office. The Petitioner's belief is unsubstantiated and erroneous especially since the Petitioner himself was a customer who bought my comic book on November 5th, of 2018 while my mark COMICS GATE Registration No. 6102744 was being used.

13. The statement made by the Petitioner in this section is false. As stated throughout this document, I have been using the mark as well as my community. The Petitioner himself acknowledges my use of the mark COMICS GATE Registration No. 6102744 when he purchased my comic book Detective Dead on November 5th of 2018.

14. Despite what the Petitioner believes, the mark is still in use whether by me or someone in the community. The basis to his statement is that I have yet to sell another book under COMICS GATE Registration No. 6102744. I cannot sell another book until I fulfill my first. To release another book while the first one is still due is a poor business decision and would ruin my reputation as a creator. I have even provided a digital copy of the first 26-27 pages of my book to customers and non-customers alike in hopes so that they are able to see the book in its production phase. So, despite what the Petitioner believes, the mark is in use by me, and other creators who have delivered books under the COMICS GATE mark.

15. What the Petitioner is arguing here is also false. As I stated above, the Petitioner himself bought my comic book Detective Dead under the use of the COMICS GATE mark Registration No. 6102744. I was also promoting other creators works under the mark and even released a

series of art videos while using the mark. If that is not enough, as stated above, there are dozens of creators that have sold and shipped books under the COMICS GATE mark. One can argue I am the mark's keeper, and it is my responsibility to defend it.

16. In response to the Petitioner, I do not have or have had any intention to deceive the USPTO. Everything I have submitted to and through the USPTO was factual information about the use of the mark COMICS GATE Registration No. 6102744. I do not have time for pettiness brought forward by the Petitioner who is attempting destroy what I and countless others in the community worked hard to build. The Petitioner should stop attempting to deceive the USPTO. I find it disappointing he is attempting to use the legitimacy of my claim of the mark COMICS GATE in attempt to destroy a community of creators that come from all walks of life.

17. Again, I refute this claim by stating that Petitioner bought my comic book knowingly under the COMICS GATE mark Registration No. 6102744. He is also knowingly attempting to register his Trademark Application(s) Nos. 88872841 and 88925542 for the mark COMICSGATE while others in the community outside of myself are using the mark to sell and promote books. I would also like to reiterate my comic book Detective Dead was sold and promoted to HIM and hundreds of other customers under the mark COMICS GATE.

18. The Petitioner claims I am not entitled to a mark I filed a trademark for almost two years ago, yet he claims I have not used it for three or more years. There is an inconsistency in his claim of the time he said I abandoned the mark and the time I filed. The Petitioner is obviously attempting to commit fraud based on providing disinformation.

19. The argument that I have committed fraud is based on the Petitioner's misinformation and willingness to claim a mark that did not belong to him. That is where the real fraud lies. He very well aware that I am the owner of the mark COMICS GATE Registration 6102744 when he attempted to buy it from me via email and Twitter. When I denied him the purchase, he willingly filed his own applications against mine for the Trademark Application(s) Nos. 88872841 and 88925542 for the mark COMICSGATE. He attempting to commit fraud and infringe on my mark.

20. The mark COMICS GATE Registration No. 6102744 is not invalid and stands on the merits in which I stated above through the numbered defenses. If any registration were to be considered invalid, they would be Trademark Application(s) Nos. 88872841 and 88925542 for the mark COMICSGATE. The Petitioner also argues that the mark was not in use before the trademark file, however, that is not true. The Petitioner does not know that I have attempted to sell books under the mark COMICS GATE Registration No. 6102744 from July 1-2nd of 2018 to August 2nd of 2018. However, he is aware that COMICS GATE is a community of over a few thousand individuals that identity with the mark. He is aware that dozens of creators have used the mark to sell and promote books. When my first campaign failed under the mark, I was forced to hire a new team of artistic individuals to help me create a more marketable looking book. I promoted the book under the mark COMICS GATE until I was ready and able to sell it from September 7-8th of 2018 to August 29th of 2019. After August 29th of 2019 I took the book off the store mode so I can focus on its production. I have been and continue to use the mark aside from other

creators. The Petitioner was also denied our platform because he claimed he wasn't COMICS GATE, thus why he is attempting to infringe on the mark.

21. The Petitioner's allegations once again are not substantial enough to infringe on my right to the mark COMICS GATE Registration No. 6102744. This a mark used by dozens upon dozens of creators aside from myself.

22. When I signed the declaration of use on April 24, 2020 the mark COMICS GATE Registration No. 6102744 was in use whether by me or other creators. Even now I am using the mark. What Petitioner suggest as not using the mark is the idea of not releasing a new book. I cannot release a new book until the first one is done, or I will risk losing all my customers and the business I am attempting to build. That is why I must wait patiently for my creative team deliver the production pages of my comic book.

23. What the Petitioner is claiming is false. My goods are listed as Comics and that is what 1,153 individual customers purchased from me. The number of customers is even larger if I were to gather the total from other creators that have sold under COMICS GATE mark Registration No. 6102744. Again, my book is still under production and I cannot risk losing those customers by releasing a new book under the mark COMICS GATE when the first one is yet to be finished. It would crush any hope I would have at producing another book.

24. This is also false. As stated above, I am still using the mark as well as dozens of other creators, some which have sold more than one book under the mark COMICS GATE

Registration No. 6102744. However, I cannot release another book under the mark COMICS GATE until my first book is done. It would damage the business I am trying to build.

25. All the images I have attached mentioned by the Petitioner are proof that I have been using the mark and I have plenty of more. I also have proof have proof of the mark being used on the books by other COMICS GATE creators. I only provided what I believe would be good enough for the USPTO. If these images were not good enough proof, then I do not understand why the USPTO accepted them and led me to believe they were otherwise. They were accepted because they were good enough to give me the rights to the mark COMICS GATE Registration No. 6102744.

26. The term “project” is used to refer to one of the many books that goes under the COMICS GATE mark Registration No. 6102744 by other creators. The Petitioner argues there is no date for the book that is untrue. There is date on the webpage where my book was sold, however, the book’s released has been delayed due to the slow process of my creative team’s work. When I released the campaign, the money that I received was used to pay my creative team. Even the Petitioner purchased a copy of my book knowing this. The Petitioner himself is an independent comic book creator and understands how this works. The attempt to invalidate my proof is solely based on my book’s original completion date, which is now very, very late. I depend on my team and I constantly reach out to them to inquire the progress on art, color, and inks. The book’s completion heavily depends on the working speed of my creative team. The Petitioner and I even use the same Artist for our independent comic books, and I will state this again, he knows how the creative process of a comic is.

27. The Petitioner references the Lanham Act which uses 15 U.S.C § 1127 to highlight what is “use in commerce.” What the Lanham Act states is that, *“Two basic requirements must be met for a mark to be eligible for trademark protection: it must be in use in commerce and it must be distinctive.”* When reading 15 U.S.C § 1127 which the Lanham Act uses as a guideline it clearly states,

*“The term “**use in commerce**” means the bona fide **use** of a **mark** in the ordinary course of trade, and not made merely to reserve a right in a **mark**. For purposes of this chapter, a **mark** shall be deemed to be in **use in commerce**—*

(1) on goods when—

(A) it is placed in any manner on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto, or if the nature of the goods makes such placement impracticable, then on documents associated with the goods or their sale, and

According to section (A) on the first line of the paragraph it reads, “it is placed in any manner on the goods or their containers or the display associated there with...” When I used the mark COMICS GATE Registration No. 6102744, I displayed the mark on my description page as seen on “EXHIBIT A” while the sales were going on. The mark does not have a specific design, the words itself is representative of the mark. The mark itself was going to be placed on my book upon its printing date when the production was complete. As stated earlier, INDIEGOGO is a public platform for independent creators to make a profit selling their comic books. They will not send out or allow creators to print a financial document with the creator’s mark attached.

*(B) the goods are sold or transported in **commerce**, and*

As obviously stated on section (B) it does not specify how the goods should be sold, rather it states the, “the goods are sold...” Which is exactly what I have done while using the COMICS GATE mark on both my failed and successful campaigns, dates: July 1-2 of 2018 to August 2nd of 2018 and again from September 7-8 of 2018 to August 29th of 2019.

*(2) on services when it is used or displayed in the sale or advertising of services and the services are rendered in **commerce**, or the services are rendered in more than one State or in the United States and a foreign country and the **person** rendering the services is engaged in **commerce** in connection with the services.”*

I have met the requirements explained here in Section (2) when I used the mark in advertisement of my book as seen in “EXHIBIT C” and I have linked my customers to the first 26-27-page digital preview of the book they bought into thus being a rendered service in commerce across the United States and internationally. Like Kindle in which one can buy digital books, I have offered in my online store via INDIEGOGO digital copies of the book along with a hard copy. That more than signifies a use in commerce and providing a goods and service to my customers. Again, I will like to reaffirm the U.S. Trademark Office I am not attempting to commit fraud and I have used the mark as well as dozens upon dozens of other creators to sell their books under the mark COMICS GATE. As stated earlier in my defense, I am sort of like the keeper of the mark. The Petitioner wants to alienate thousands of people that use the mark COMICS GATE Registration No. 6102744 by attempting to claim it for himself so that he is able to charge them for using the name, which is opposite of what I am doing.

28. The second image which I provided, exactly shows that books were sold under the use of the mark COMICS GATE mark Registration No. 6102744. The search bar on top of the page of EXHIBIT B has the word, “Indiegogo” and it matches the search bar on the page labeled EXHIBIT A, “Indiegogo.” You cannot see the mark because the books were sold on a public platform which I have no control over on what is displayed. EXHIBIT B shows the order page, and which displays 2 of 1,167 books sold under the mark COMICS GATE. It also shows the date of the second time I launched the book. If sales are the issue here as suggested by the Petitioner, I have that information readily available. Again, the Petitioner references the projected completion date of my book, any independent creator knows when you try to fund a book from scratch with only a few images to engage your buyer, it takes time for its completion. The process of creating a comic book is not some overnight miracle especially for one such as myself who has no skill in drawing, inking, coloring, and lettering. I depend on a team of creative people to help bring my project together.

29. As stated earlier, it does not show the mark COMICS GATE Registration No. 6102744, because it’s a public platform in which creators have no control on what shows up on the finance, contribution, referrals, or perks page. This platform is used for independent creators to get their feet and business off the ground under the mark COMICS GATE. The only page that allows display of the mark is the description page.

30. What the Petitioner is stating here is false. The image on EXHIBIT C shows the date of the 2nd launch on my comic book Detective Dead under the mark COMICS GATE Registration No. 6102744. It does not indicate actual sales because it is a promotional video to launch myself as

an independent creator under the mark. It does not indicate a release date because the production depends on the speed and availability of my creative team. While they work on my book, they also work on other projects by other creators. They're not solely working for me as they depend on other work to feed their families. The purpose of the third image in EXHIBIT C is to show an advertisement video that was launched with my book under the mark COMICS GATE. Most of my customers only support COMICS GATE created books. The thousands of customers that consider themselves part of the community, only buy books from creators who use the mark COMICS GATE. The community refers itself as COMICS GATE.

31. This is false. The mark COMICS GATE Registration No. 6102744 was used to advertise my comic, sell my book, and under the mark I have given my customers a digital preview of my book Detective Dead. During and after the closing my store, I have issued refunds to customers for the delayed production of my book. A refund itself should constitute a use of the mark while under commerce despite not releasing a new book yet. If I had known that the Petitioner, who is a fellow comic book creator and customer of mine was going to attempt to infringe on my mark COMICS GATE, I would have prepped better and provided dozens of images as proof to shut down any refutation. Hopefully, I will have the chance on the discovery date and defend this mark for the sake of my business and for the sake of the dozens of creators that use it.

32. The Petitioner again is incorrect. As stated, the mark the mark COMICS GATE Registration No. 6102744 is currently in use as the production of my comic book continues. It is in currently use now by dozens of other creators selling their books via INDIEGOGO. The mark is always in use despite what the Petitioner claims. It would also be very irresponsible of me to attempt to sell

another book when my first one is yet to be done. To void this mark COMICS GATE Registration No. 6102744 is to destroy an entire community who continue to use it as a means of finding new avenues to explore in life as they pursue their dreams in storytelling.

33. I strongly believe the Petitioner's request should be denied and Trademark Application(s) Nos. 88872841 and 88925542 for the mark COMICSGATE be cancelled. If Petitioner were granted his request, it would be an injustice and personal attack on this creative community that use the mark COMICS GATE Registration No. 6102744. For the Petitioner to claim my mark as fraud, non-use, and/or abandonment is false and can be proven otherwise if given the chance.

ANTONIO J MALPICA

Defendant



Signature: 

Date: NOVEMBER 9th, 2020

EXHIBIT A

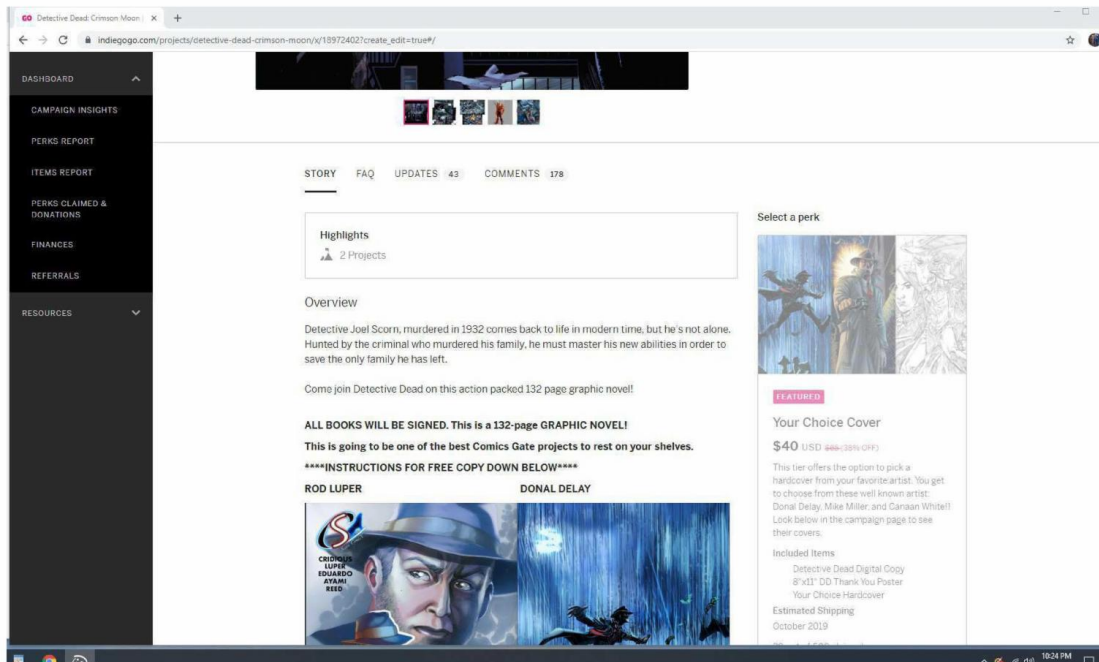


EXHIBIT B

INDIEGOGO Explore What We Do

For Entrepreneurs Start a Campaign Antonio

Dashboard / Perks Claimed & Donations

Perks Claimed & Donations

Use the table below to look up details for a specific contribution or customize what you see by filtering contributions. You can add tracking information to individual perks by clicking on a specific perk. To add tracking for a batch of perks, export the CSV, add information to the carrier and tracking number columns, and then import the CSV. [Learn more about perks & tracking information](#)

Filter by Perk Filter by Shipping Country Search by contributor name or email **IMPORT CSV** **EXPORT CSV**

ALL CONTRIBUTIONS PLACED 1,150 LOCKED 0 FULFILLED 0

Showing all 1167 contributions.

Type	Date	Contributor	Perks	Shipping	Tracking	Payment	Fulfillment	Total
Contribution 1	Sep 7, 2018	Michael [redacted]@yahoo.com	Vigilante Package	[redacted] Akron, OH 44303 United States	-	PAID	PLACED	\$55
Contribution 2	Sep 7, 2018	beanfrompa [redacted]@yahoo.com	Detective Dead Bundle	[redacted] New Castle, PA 16051 United States	-	PAID	PLACED	\$25

EXHIBIT C

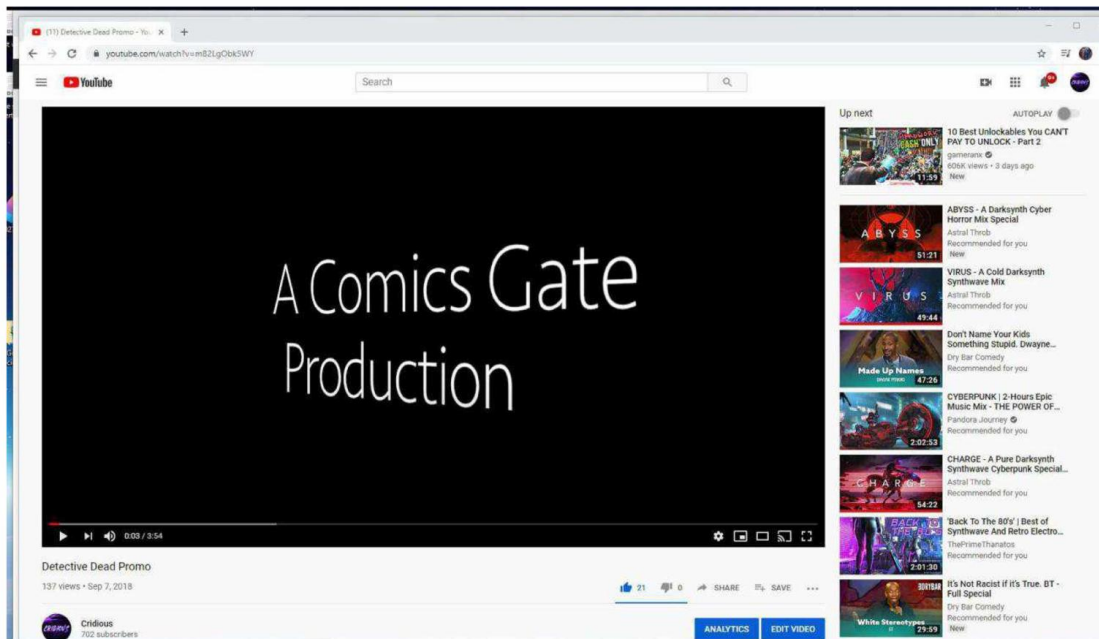


Exhibit G

About 29,600 results (0.73 seconds)

<https://twitter.com/comicsgatevideo/status/1414111111111111111>

Comicsgate.org on Twitter: "Ethan Van Sciver wins first round ...

Jul 11, 2021 — Ethan Van Sciver has been named a co-defendant in Preston Poulter's bid to wrest the Comicsgate trademark away from Antonio Malpica before ... You've visited this page 2 times. Last visit: 2/24/22

<https://trademarks.justia.com/comics-88102778>

COMICS GATE Trademark of Malpica, Antonio J.

COMICS GATE is a trademark of Malpica, Antonio J.. Filed in September 3 (2018), the COMICS GATE covers Comics.

<https://bleedingcool.com/comics>

Allegations Of Fraud Raised In Comicsgate Trademark Battle

Oct 7, 2020 — ... abandoned trademark application for the phrase "Comics Gate" by Antonio J Malpica of Florida comics publisher Scorn Comics, was revived.

<https://www.trademarkelite.com/trademark-detail/comics-gate>

COMICS GATE Trademark of Malpica, Antonio J.. Serial Number ...

Based on Malpica, Antonio J., the COMICS GATE trademark is used in the following business: Comics - Trademark Elite is the largest free online trademark search, ...

<https://uspto.report/comics-gate>

COMICS GATE - Malpica, Antonio J. Trademark Registration

Malpica, Antonio J. Address, 88 S Jefferson St Beverly Hills FL US 34465. Legal Entity Type, Individual. Legal Entity State, US. Documents.

<https://alter.com/trademarks/comics-gate-88102778>

COMICS GATE Trademark of Malpica, Antonio J. - Serial Number ...

COMICS GATE is a trademark owned by Malpica, Antonio J. and filed on Monday, September 3, 2018 in the Paper & Printed Material Products category.

Exhibit H



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Ethan Van Sciver wins first round in [#Comicsgate](#) TM trial as Poulter's motion for judgment is denied

By Robert Romano



comicsgate.org
Ethan Van Sciver wins first round in [#Comicsgate](#) TM trial as Poulter's motion f...
Ethan Van Sciver has been named a co-defendant in Preston Poulter's bid to wrest the Comicsgate trademark away from Antonio Malpica before the USPTO...

10:04 PM · Jul 10, 2021 · Comicsgate.org

11 Retweets 2 Quote Tweets 82 Likes



Revuel Arvida @JAilakis · Jul 11, 2021

Replying to @ComicsgateVideo
@BouncingComics @RekletaMedia @RealClownfishTV



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Lord Tatman @LordTatman · Jul 11, 2021

Replying to @ComicsgateVideo

Nice!



PKConred @pkconred · Jul 11, 2021

Replying to @ComicsgateVideo

Is Antonio Malpica the guy who owes me a Detective Dead?

1

1

6



Robert Romano @robert_j_romano · Jul 11, 2021

You and me both. Last I heard he was still getting pages from the artists but who knows?

1

3



PKConred @pkconred · Jul 11, 2021

there were 2 CG projects I was SOOO looking forward to.
3 before the Anna Cover Fiasco.
Detective Dead and Lady Alchemy.
Still fucking waiting.

1



Robert Romano @robert_j_romano · Jul 11, 2021

Now Martina is definitely still getting all the pages done. The line work is done and the coloring is 3/5 of the way there after the original artists were fired. She's dedicated to getting the book done! @LadyAlchemy33

1

Lady Alchemy® @LadyAlchemy33 · Jul 5, 2021

Samples of page 24. 60% completed with coloring!



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NCAA Men's Basketball · 4 minutes ago

Orange at Blue Devils

Trending with Jeremy Roach, Syracuse



NCAA Men's Basketball · LIVE

Gators at Aggies

Trending with Mike White



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Robert Romano @robert_j_romano · Jul 11, 2021
Now Martina is definitely still getting all the pages done. The line work is done and the coloring is 3/5 of the way there after the original artists were fired. She's dedicated to getting the book done! @LadyAlchemy33

Lady Alchemy @LadyAlchemy33 · Jul 5, 2021
Samples of page 24. 60% completed with coloring!



1 1



PKConred @pkconred · Jul 11, 2021
October 31, 2018
Thats the date of my contribution.
You were saying?

2 1



Robert Romano @robert_j_romano · Jul 11, 2021
I hear you. I bought my copy on Feb. 20, 2019. Still looking forward to it.

1 1



PKConred @pkconred · Jul 11, 2021
Detective Dead
Lady Alchemy
Little Girl Lethal
Shinobi Sasquatch...
if it weren't for Sweetcast and Wenger CG would be dead fruit on the vine

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NCAA Men's Basketball · 4 minutes ago

Orange at Blue Devils
Trending with [Jeremy Roach](#), [Syracuse](#)



NCAA Men's Basketball · LIVE

Gators at Aggies
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inats tne date or my contribution.
You were saying?

2



...



Robert Romano @robert_j_romano · Jul 11, 2021

I hear you. I bought my copy on Feb. 20, 2019. Still looking forward to it.

1



PKConred @pkconred · Jul 11, 2021

Detective Dead
Lady Alchemy
Little Girl Lethal
Shinobi Sasquatch...
if it weren't for Sweetcast and Wenger CG would be dead fruit on the vine without Zack.

1



Kriztuhfuh **typo at large** @KrisOwrey · Jul 11, 2021

Yeah...I mean if you wanna ignore about 50 other creators making books.
Sucks you have yo wait, maybe someone should have explained
crowdfunding to you better.

3



This Tweet was deleted by the Tweet author. [Learn more](#)



Kriztuhfuh **typo at large** @KrisOwrey · Jul 11, 2021

Yeah. I've had more let downs with ttrpgs than any comocs

1



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Wolverine and X-23 by @KaeliNgu
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